

COMMITTEE ON LANDS AND BUILDINGS

May 29, 2007

**Aldermen Thibault, Smith,
Forest, Roy and Long**

5:00 PM

**Aldermanic Chambers
City Hall (3rd Floor)**

Chairman Thibault called the meeting to order.

The Clerk called the roll.

Present: Aldermen Thibault, Smith, Roy, Long

Absent: Alderman Forest

3. Communication from Glen Ohland regarding two items relating to the JacPac properties:
 - A. Draft purchase and sale agreement anticipated to be submitted at meeting

Chairman Thibault addressed Item A, Draft purchase and sale agreement. A copy was distributed to members of the committee.

Mr. Ohland stated as you know last fall we put out a request for proposals on the JacPac site, we got one submission from Anagnost Investments, proposal, his conceptual plan was for two or three office buildings comprised of a total of up to 300,000 square feet of class A office tenant. I believe I recall the number of housing units at 36 on the site, and a retail component that was out facing Queen City Avenue area of the 17 acre site. In addition his conceptual plan called for deeding back the parcel of land on the west side of the railroad tracks back to the City for creation of a riverfront park, and continuation of the riverwalk along that area. That parcel is approximately 4 maybe 5 acres of the entire 17 acre site. This committee had basically given us the direction or permission to enter into negotiations with Anagnost Investments for a purchase and sale for transfer for potential of developing a project similar to the conceptual plan that he outlined in his response to the request for proposals. Over the past month and a half the economic Development Office, the City solicitor's office, Finance Office, Planning, a representative from the Mayor's office, and Manchester Housing

Redevelopment Authority have all been working to come to conclusion and agreement. The number as stated in his original proposal for a purchase price of \$3.6 million is what is in the purchase and sale, and where we are at today is after a little bit of back and forth around the terms of the purchase and sale, we have a purchase and sale agreement that all parties concerned with are happy with and are bringing it forth to you tonight with the understanding that you would make a recommendation on way or another to the full Board of Mayor and Aldermen at next week's meeting.

Alderman Roy stated one of my first concerns under the Section 11, Development, it talks about any material deviation from the intent and quality levels set forth. It really takes everything out of the hands of this Board, which is one of my concerns. You've got a good group of people there but they are all staff members and one of my concerns is that we are ultimately responsible to the taxpayer and the constituents of Manchester, and if all parties found it agreeable I wouldn't mind an aldermanic representative being at that table. Not something I am going to draw a line in the sand I think so far in looking this over it seems to be a very nice purchase and sales, it hits along all of the topics we have talked about earlier, and I think Dick has a proven track record of getting done what he says he is going to done, so that carries a lot of weight. From here I would ask has the solicitor review this.

Deputy Solicitor Arnold stated yes we have.

Alderman Roy stated and comfortable with all language.

Deputy Solicitor Arnold stated as comfortable as I am going to get I guess, one could always hope for more favorable terms but it was negotiated.

Alderman Roy stated I think the beginning section of the purchase price being the \$3.6 million and that combined with the CMC lease I believe is a nice step forward in going towards what we did as Board to move this project where it is and I commend the gentlemen at the center for doing that.

Mr. Dick Anagnost addressed the Committee asking Alderman Roy if he was requesting that the Ward Alderman be placed on the Committee or someone to be named by the Board of Mayor and Aldermen, I just want to understand.

Alderman Roy responded I don't have a preference if the ward alderman, I try not to bury some of the ward aldermen or commit them to things, if the ward alderman was the designee that would not bother me at all, I think he represents his ward perfectly but it could be anyone on the Board.

Alderman Long stated I wouldn't have a problem sitting on this committee, and I have the same concerns as Alderman Roy does. As far as seeing this go toward what we had intended, just being assured of it.

Mr. Anagnost stated he had no problem with it, he was just trying to clarify who it might be.

Alderman Long stated it could be the ward or a designee, who would appoint that.

Mr. Anagnost stated aren't you the ward alderman of this project.

Alderman Long stated but who would appoint.

Chairman Thibault stated I would imagine that the ward alderman would probably have preference to serve on that Board if that's what you would like, I'm sure that Alderman Roy would also go along with stating that you would probably be the one being in your ward, that should be, I have no problem with that.

Alderman Long stated and what I am hearing from the developer that there is not a problem either.

Mr. Anagnost stated there was no issue either way, I was just trying to clarify where or when or how we would get somebody aboard.

Deputy Solicitor Arnold stated what I would envision if this Committee expressed a preference for the ward alderman we could merely modify the agreement to add Mr. Long to that list of staff and present that to the full Board and take care of it in that manner.

Chairman Thibault stated are you saying that we should do that now.

Deputy Solicitor Arnold responded yes added to the list of staff contained in the agreement.

Chairman Thibault stated yea, I certainly have no problem with that.

Alderman Smith stated he had no problem with that but had a question asking if the purchase and sales agreement is approved by the full Board of Mayor and Aldermen when to you foresee action down there.

Mr. Anagnost responded the following Monday.

Alderman Smith stated and your plan is still with the housing and commercial development.

Mr. Anagnost stated correct, nothing has changed, actually I am under the gun to get moving because now I have 29 months left with the proposed tenant to get them in, so I have to move fairly quickly that's why I didn't want it to be delayed for the appointment of an alderman at a later date and hold up the contract.

Chairman Thibault stated are you saying that if we inject an alderman that you will have no problem with that.

Mr. Anagnost stated none whatsoever, as a matter of fact the City Solicitor's recommendation to me is even better because if we modify the contract to include him then we don't need to go through any formal appointment process.

Alderman Long asked if he had a layout of parcel and 2 and 3 that is going to be donated.

Mr. Anagnost stated he did not have it with him but I can tell you it is all of the land that's owned by this project west of the railroad tracks.

Alderman Long asked if it stopped at the railroad track.

Mr. Anagnost responded correct.

Alderman Long stated and that is roughly four acres.

Mr. Anagnost responded correct.

Alderman Roy asked the process and whether the report would come out to the Board at the June meeting.

Deputy City Clerk Johnson advised she would be looking for a motion to amend the agreement and then the recommendation would be that that Board authorize execution of that agreement subject to the review and approval of the City Solicitor, that recommendation will be reported out at the June meeting.

Alderman Roy moved that they accept and approve the purchase and sales agreement as brought forward to us, with the amendment on the last line of Section 11.01 interjecting after economic development officer the Ward 3 Alderman or the Ward 3 Alderman's designee. Alderman Long seconded the motion. There being none opposed the motion carried.

Chairman Thibault addressed Item B relating to Keyspan and the License Agreement from MHRA.

- B. Lease opportunity with Keyspan. MHRA has voted to approve execution of a License Agreement subject to review and approval of the use by the appropriate Aldermanic Committee or full Board of Mayor and Aldermen.

Mr. Ken Edwards, Assistant Executive Director, MHRA addressed the committee noting Dick Webster, MHRA, and Tricia Haederle with Keyspan were also present. As owners of the JacPac property we were approached by Keyspan for use of a portion of the site to remediate coal tar that is in the river and Keyspan has been working with their environmental engineers, Anchor Environmental, and the Department of Environmental Services at the State level to develop a plan for the dredging of this material and the offloading of the material onto a site for drying and then removal to a suitable disposal site. We have negotiated a lease agreement with Keyspan which includes a rate of \$8,000 a monthly for the use of the property and again this is the property at the river on the west side of the railroad crossing which ultimately Mr. Anagnost if the purchase and sales of the property goes through, will be turning back to the city. That is the parcel we are talking about. It is a paved area in front of what was known as the freezer building at Jac Pac. It's approximately 50,000 square feet. The original offer was to lease that space for \$4,000 a month, which is pretty consistent with what rental property, vacant land, is worth in Manchester between 75 cents and a dollar a square foot a year. But in order to make the deal a little more attractive to the City and with our urging they agreed to increase that offer from \$4,000 to \$8,000 a month which is what is consistent with what we had been charging CMC for use of the property down there for parking on an interim basis. In addition they have agreed to pay for the services of an independent environmental engineer. Haley and Aldrich has been retained on our behalf and the city's behalf to assure that we have an independent look at the remediation process and to do some pre remediation soil sampling and ground water sampling to assure that after they have completed their remediation we have not left any contamination of the site. So they will do a pre screening to determine exactly what's there and then they will do a post screening after remediation to assure that there has been no change in the property during this remediation process. And of course their environmental engineers will be reviewing the remediation process as well as the Department of Environmental Services. They have already applied for and received a permit from DES for this remediation. So based on this proposal that they made we have brought to our Board the license agreement and they have

approved it and forwarded it on to the city for consideration, I think that's where we are.

Ms. Haederle stated that Mr. Edwards had covered everything well but was available to answer any questions about the remediation.

Alderman Smith stated I noticed the temporary close and the rerouting of the walkway that is very vital to all the pedestrians and so forth, it's highly used, and I am familiar with the land and would assume it is highly contaminated because of the plant that was very adjacent, so I want to know what your procedures are going to be and so forth in regards to the citizens using the walkway.

Mr. Edwards stated Keyspan has provided for the relocation of the river walk in the area that they are going to construct their ramp to off load the material from the river to the storage area. But it will only be to keep it open nights and weekends since during their daily operations they will be crossing that area, but they are willing to build a paved relocated riverwalk out of the large sloped area from the river bank under the bridge abutment and provide fencing around it so it could be opened for evenings and weekends.

Alderman Smith asked what time limit they expected for the clean up.

Mr. Edwards stated they have indicated that they will be complete by the end of December. They have asked for an eight month license starting June 1st and expect to be done operations and their operations include full restoration of the riverwalk to its current location after they are complete, and they expect to be done by the end of December.

Alderman Smith asked and what would be the time limits, what time would they be starting and what time would they be ending on a daily basis.

Mr. Haederle replied we haven't set a firm work schedule but it would probably be somewhere between the hours of 8 and 4.

Mr. Smith stated this won't interfere with the Chinburg development at all.

Ms. Haederle replied the dredging that we are planning on doing as part of this project is actually in the water in front of that development or adjacent to it but as far as any work on the land we are not planning on doing any work on the landward side in that area.

Alderman Roy stated the 9,000 cubic yards for the coal tar that will be dredged, other damage that would be caused environmentally, I know you are doing this to

get it out of the river, but as far as odors and smells for the ballpark and residents of that area what can we foresee when we start dredging the river.

Ms. Haederle stated we have submitted an extensive plan that has been approved by portions of the department of Environmental Services and we expect a full approval before we begin the work which describes how we will deal with odors and assure people in the area will not be exposed to the odors. We will actually stop dredging during ballgames just for that reason to be sure that there is no disruption to the public. But we do have mechanisms for dealing with the odors there are modifications that we can make to our dredging operations to lessen that impact. So we will be monitoring the air quality throughout the project we do have instrumentation that we deploy all around the work area and somebody is watching that all the time so we will be making sure that that's not an issue.

Alderman Roy stated once the coal tar is out of the river as far as containment using the location that you are leasing covered, sealed, what will the.

Ms. Haederle responded again there are a variety of different ways that we will deal with this, we can cover the piles, we use a foaming agent which not only keeps the dust down but it keeps the odors down and we also added desiccants to get rid of or lessen the water content and then we move it off site as quickly as possible in covered trucks so our goal is to keep it moving through the site not sitting around for long periods of time. We want to be completely out of there by December 31st.

Alderman Long stated can I assume that the dredging plan has the cuts down on the odor, is that part of the plan with the DES, is that part of your description that you have to give the DES.

Ms. Haederle responded yes.

Alderman Long asked if that was a public plan.

Ms. Haederle responded it is, stating that she had a copy and would be happy to supply a copy for him.

Alderman Long stated but it states within in that calming of the odors and airbornes or what have you.

Ms. Haederle stated yes we will be doing that.

Alderman Long stated the temporary storage and stabilization is all federal and state guidelines that you will be doing.

Ms. Haederle responded absolutely we couldn't have gotten an permit unless we had guidelines in the report and we will follow those guidelines.

Alderman Long stated and as Alderman Smith mentioned it was going to be a daytime operation not a nighttime operation.

Ms. Haederle responded absolutely.

Alderman Smith asked how this was going to effect the developer with the JacPac situation, you are going to be abutting each other.

Mr. Edwards stated they had talked with Dick Anagnost about the scheduling and the scheduling he indicated would not be a problem. If his purchase and sales is approved he is going to go through a due diligence period in which he is going to be doing his investigation and so forth and this work will be occurring during that time. Worse case scenario the building would be demolished during the time they are doing remediation which is you could ask Mr. Anagnost but I believe that probably won't happen before the end of this calendar year, but if it were we have talked with Keyspan about that and demolition of the building could be accommodated and they could still continue their remediation.

Alderman Smith stated and what would be the complement of construction people down there on a daily basis, trucks, equipment, and people.

Ms. Haederle stated with the plan that I offered to leave with you will give you a better idea but in a nutshell I can tell you that we will probably have 10 or so full time employees down there on a daily basis, we will have several barges and excavators out in the river, and I anticipate probably 5 to 10 truck trips a day to remove the material out from the site and take it off site to it's disposal facility.

Alderman Smith stated if you are taking off the site, what route are you taking up through the ballpark and out through Commercial Street, or are you going to try and go out through Queen City Ave, or West Hancock Street.

Ms. Haederle stated we will be exiting out by Queen City Ave and getting on to 293 as quickly as possible.

Alderman Long stated in the plan is there notification to abutters as to when you are going to start this operation or maybe a little warning s to you may get a scent this is what it is or what have you.

Ms. Haederle stated when we applied for our permit with the State of NH to do this work we had to notify abutters, so abutters were notified at that time. The plan was made available to anybody who wished to see it and in there it gave a time frame and a schedule, so in that sense abutters have been notified. We would hope that there wouldn't be any odors that anybody would notice. They will see signage go up around the river walk when it is being relocated so that will given them some sense of when the work is going to start.

Alderman Long stated I understand that the abutters were noticed for the public hearing that you had with the DES but is there any kind of notice, I could just see the questions coming in is the water downstream going to be contaminated when you are dredging this out, what have you for questions is there some sort of public notice of here's we are going start dredging and...

Ms. Haederle stated there is no requirement. We will post an 800 number so that anybody who is walking by the site can call us for more information but we don't have any other requirements from the state or local requirements that require us to notify anyone in advance.

Mr. Anagnost was asked to address the committee and stated I am in favor of it going forward. MHRA and I have worked out all of the details necessary with Keyspan my main concern was that there be pre-soil testing and post-soil testing because with me coming in to the chain of title if there was something that was left there post that hadn't be there pre, I would then be as responsible as the city to clean it up, and I don't want to be in the chain of title for 15 minutes and then give it back to you and be held responsible for the contamination. So they've pretty well addressed that issue. All of the other issues have been addressed, we are in a position where even if we started demolition Alderman Smith we would save west of the railroad tracks for last thereby they wouldn't interfere with us, we wouldn't interfere with them and the majority of our environmental testing on our own is east of the tracks anyway because that's where we are going to be disturbing the soil. I would say that the only last issue that I would have is somewhat of concern but not a major one in any way is they are going to be using the impervious surface which is the asphalt parking lot there, and they are under an obligation to restore it to the condition that it was in prior. Well should that become damaged whereas it is going to be a park, we prefer it if they just pick it up and take it away with them and left the city some loom and seed, my concern is I don't want them to go in and fix it back to new again because that wouldn't make any sense for them or us. Also, they are going to be building a boat ramp access to the river and one of my suggestions was that they leave it there for the use of the City. I'm not sure if that is feasible. Those are the main issues we raised today.

Alderman Long asked where the \$8,000 goes.

Mr. Edwards responded we hold it, just as we are holding the revenue that we collected from CMC for parking, to be used by the City for whatever they would elect to use it for. We would hope that this money would go toward a future economic development project. I mean that would be our preference but that's at the discretion of this Board.

Alderman Long stated he also saw that there was general liability with the city named on that.

Mr. Edwards stated that was correct.

Chairman Thibault asked if there was a motion.

Deputy City Clerk Johnson stated it is my understanding that you want to move to recommend approval of the agreement that was presented, but if I am understanding correctly from what I was witnessing by the Committee you are also looking to have it subject to the conditions set forth by Mr. Anagnost being contained within the agreement, as part of the final document.

Alderman Smith so moved.

Deputy City Clerk Johnson advised it referenced the pre and post soil testing, the parking lot if there was damage to the parking lot rather than replacing it was to be removed, and the issue of the boat ramp and the solicitor is going to want to review the document.

Ms. Haederle stated we find the pre and post testing acceptable that's not a problem, one thing that I do want to point out with respect to the boat ramp is we are constructing something that is designed to be temporary and the design was approved as part of our permit condition and that if I understand the boat ramp that the developer is maybe looking for is something that is a permanent structure. That would require an entire new permit application and is completely outside of the scope of work that we had planned on doing so I can't agree to a boat ramp. The question about the asphalt, yes if we do damage the asphalt during the course of our operations we would be amenable to replacing that, but I can't agree to take up 50,000 square feet of pavement whether it is damaged or not, I just want to be clear we will gladly replace anything that we damaged during our operations but we do have a duty to the ratepayers of the state of NH and we need to keep costs under control.

Alderman Long as far as the asphalt I believe that was under the developer's impression, whatever you are using, whatever you damage instead of replacing it

where it is not going to be asphalt, maybe you can loom and seed what you damaged not the whole area instead of asphalt since the developer is not going to be using it for that purpose.

Ms. Haederle stated I just wanted to be clear because it had been bandied about that we replace all of it, and unless we damage it I am not in a position to replace it.

Alderman Long stated the boat dock. Would it be the preliminary that you wanted, the template?

Mr. Anagnost noted that if they were putting in something the city could have used in the future then he thought it would make sense to have them turn it over to the city.

Alderman Long stated in the agreement it calls for replacing everything the way it was and what we are looking for is if the developer accepts what they have out there then they don't have to replace that.

Ms. Haederle noted that the boat ramp and dock that we are putting in is a temporary floating dock and the only part of that could be construed as permanent is the earth work that we need to do to construct a ramp from the water up to the Jac Pac area. Now bear in mind that this ramp will cut through what is the river walk so we had agreed to replace the river walk to the condition that we had found it in so if we were to leave this ramp in place there is a couple of caveats that we wouldn't be able to replace the river walk back to its original condition nor is this designed to be permanent and there will be erosion that will take place and we don't have the controls in place and hadn't designed the controls to take care of that erosion so it's really not designed to be a permanent structure.

Alderman Long so the only advantage that the developer may have is the excavation that's already been proposed there so if that fits for a dock, you would have to replace the river walk maybe he would want you to fill that in.

Mr. Anagnost stated not having seen what they were proposing to do I would agree with her that it is probably too complicated to leave it there, but I thought it might have been brought to your attention as a potential amenity. Just to clarify what I was looking at was if you destroy 5,000 feet of asphalt I don't want you to go back in and repave 5,000 square feet of asphalt it would be a waste of your money and a waste of my time. One more thing, the City Solicitor brought to my attention, one of the things that we had requested in the indemnity agreement that we be allowed to add some language that covers us as well, and I neglected to mention that earlier, as purchasers we ask to be covered as well.

Alderman Long asked if when you close out you could meet with the developer and look at work that you may or may not have to do, using the dock as an example.

Ms. Haederle stated I understand what you are asking but we also have this scope of work that describes what we were planning on doing, we gave it to the State and they expect us to comply with that. She did not want to put the company out of compliance. It put everything back the way it was and did some significant plantings along the river walk to stabilize. As far as the indemnity goes I would have to take that back I am not an attorney, I would have to take it back to our counsel.

Alderman Smith stated it appears they didn't have all their ducks lined up and didn't have all the particulars, I would just like to say that.

In response to questions from Alderman Thibault, Mr. Edwards and Ms. Haederle again explained the temporary docks and the approval/permit process received by the state.

In response to further question Mr. Edwards described the area of the lease and it was concurred that it was in essence the same parcel that was ultimately to be returned to the city in the proposed purchase and sales agreement, and the indemnity agreement would need to include the purchaser because he would potentially own the property at some period of time during the process, but the city and MHRA would need it in the interim because of ownership.

The former motion was withdrawn and Alderman Long moved to approve the agreement submitted subject to conditions as follows: pre and post soil testings, indemnity language agreeable to the city Solicitor to cover future purchasers, and asphalt pavement damages are to be replaced with loam. Alderman Roy duly seconded the motion. There being none opposed the motion carried.

There being no further business to come before the City, on motion of Alderman Smith, duly seconded by Alderman Long, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee